cases property rights were involved; but in 1891 the supreme court of Mississippi, in *Hewlett* v. *George*, 68 Miss. 703, denied the right of an infant to maintain such an action. In *Harris* v. *State* (1902), —Ga. —, 41 S. E. Rep. 983, it was held that a mother has the right to authorize another in her presence to chastise her child, and if he do so in a proper manner he is not guilty of an assault. Parental authority is said to be a semi-judicial power, in the exercise of which parents are liable criminally only for its manifest abuse, but opposed to this generally prevailing rule is the case of *State* v. *Jones* (1886), 95 N. C. 588, in which even criminal liability for the chastisement of a child, however severe, if without malice, is denied. It would seem that in case of delegation of parental authority to another, whether to a teacher, or to a stranger for the sake of discipline, the same rule as to liability would apply as in the case of parents, namely, a parent is liable criminally for the immoderate punishment of a child, but the parent's civil liability to the child remains practically undecided.

PATENTS—INVENTION—USE OF NEW MATERIALS.—The complainant having discovered that carbons might be used to advantage in place of wire brushes in the electric dynamo, made the substitution and used the carbons for two years without claiming a patent. The defendant almost contemporaneously made the same discovery. Complainant obtained a patent and brought suit against the defendant for infringement. *Held*, that the injunction must be denied. *Thompson-Houston Elec. Co.* v. *Lorain Steel Co.* (1902), — C. C. A. —, 117 Fed. Rep. 249.

The court held that the use by two independent investigators for so long a period before seeking a patent raises the presumption that the substitution of carbons for copper was rightly regarded by the workers as a mere improvement or choice of materials and not an invention. The substitution of one material for another which does not involve a change of method or develop novelty of use, even though it result in a superior article is not necessarily a patentable invention. *Gates Iron Works* v. *Fraser*, 153 U. S. 332 38 L. ed. 734, 14 Sup. Ct. 883. The mere improvement of old ideas by substitution of newer and better materials does not involve invention which will sustain a patent. *Plastic Fireproof Const. Co.* v. *City and County of San Francisco*, 97 Fed. Rep. 620. The delay alone shown in the principal case would not probably be held to constitute an abandonment. *United States Electric Lighting Co.* v. *Consol. Elect. Co.*, 33 Fed. Rep. 869.

PLEADING—AMENDMENTS UNDER CODE—CAUSE OF ACTION.—Plaintiff corporation in its complaint set up a *legal* title to certain land through a deed of conveyance. After a decision of the lower court in the plaintiff's favor had been reversed, and the cause been remanded, plaintiff filed an amended complaint setting up an *equitable* title through several of its incorporators who had accepted conveyances of the property, in trust for the corporation thereafter to be formed. *Held*, that the amended complaint did not set up a new cause of action. *McCandless* v. *Inland Acid Co.* (1902),—Ga. —, 42 S. E. Rep. 449.

The reasoning of the court is that the plaintiff's cause of action consisted (1) of his right to possession and (2) of the defendant's wrong in withholding from the plaintiff that which is rightfully his, and that anything which tends to show ownership is a part of the plaintiff's cause of action. POMEROY CODE REMEDIES, § 452-454; *Oliver* v. *Powell*, 114 Ga. 572, 40 S. E. 826; *Frost* v. *Witter*, 132 Cal. 421, 64 Pac. 705. Authorities are not, however, in accord as to permitting the change from legal to equitable cause of action by amend-

ment. See, *Bockes* v. *Lansing*, 74 N. Y. 437; *Robinson* v. *Willoughby*, 67 N. C. 84.

PUBLIC OFFICERS—TERM OF OFFICE—RESIGNATION.—Under the Texas penal code a county surveyor is disqualified from purchasing public lands. The plaintiff in this case was county surveyor and resigned his office for the express purpose of purchasing a section of the public lands. His resignation was accepted, but no one was appointed to fill the unexpired term. The state constitution provides that all officers within the state shall continue to perform the duties of their offices until their successors are chosen. An action of trespass was brought by plaintiff to try the title to the land in question. *Held*, that an officer, whose resignation has been accepted, but whose successor has not been appointed, is still such officer with continuing disqualifications. *Keen* v. *Featherston* (1902),—Tex. Civ. App.—, 69 S. W. Rep. 983.

Where there is a constitutional provision that officers shall hold until their successors qualify, the weight of authority is that the common law rule that the resignation of a public officer is not complete until its formal acceptance or the appointment of a successor, (see *Badger* v. *United States*, 93 U. S. 599; *Jones* v. *City of Jefferson*, 66 Tex. 576; contra, *Reiter* v. *State*, 51 Ohio St. 74, 23 L. R. A. 681), is extended so as to make necessary both the acceptance of the resignation and the appointment of a successor. In reference to the above requirement, it has been said that a person seeking to escape from the duties of an office by a hasty resignation "must see that he resigns not only de facto, but de jure; that he resigns his office not only, but that a successor is appointed." However, the contrary rule prevails in New York, where it is held that such a constitutional provision applies only where the term of office has expired and not to a case of vacancy caused by resignation: *Olmsted* v. *Dennis*, 77 N. Y. 378.

SALES—CONDITIONS IMPOSED ON RESALE—NOT BINDING ON THIRD PARTIES.—Plaintiff, the owner and manufacturer of a patent medicine, sold it only under a contract by which the purchaser agreed not to retail it at less than a stipulated price. Defendant, knowing the terms of the contract, bought of a purchaser from plaintiff's vendee. In a suit to enjoin the defendant from selling under the stipulated price, *Held*, that such conditions imposed on resale do not attach to and follow the property but are binding only on the contracting party. *Garst* v. *Hall* (1901), 179 Mass. 588, 61 N. E. Rep 219.

The contract did not require purchasers to impose the same restrictions on their vendees, nor does it appear from the statement or opinion that a copy of the agreement, which purported to bind all subsequent purchasers accepting the goods, was attached to each box. Such is now the case and seems from independent investigation to have been true when this case arose. When such conditions of sale are printed on chattels, the purchaser's knowledge of them is presumed and they are binding on all those into whose possession the goods come. *Heaton Co.* v. *Eureka*, 47 U. S. App. 146, 35 L. R. A. 728. One buying chattels with knowledge of his vendor's contract to sell only subject to certain restrictions in their use will be enjoined from the forbidden use; "the party purchasing under such circumstances takes the property burdened with the contracts made by its owner in reference thereto." *Bank Note Co.* v. *Hamilton*, 83 Hun, 593, 28 App. Div. 411. Third parties with notice will be restrained from using or obtaining information from subscribers to a news agency, who have agreed not to resell the news furnished them, *Exchange Tel. Co.* v. *Gregory* (1896), 1 Q. B. 147; *Exchange Tel.*